

U.S.S.N. 09/835,209
Johnson, B.
Telephone Interview Summary and Request for Reconsideration

REMARKS

Applicant, Dr. Blake Johnson, and Applicant's undersigned representative, David Hall, extend thanks to Examiner Bashore for the courtesy of a telephone interview on Wednesday, August 3, 2005. During the interview, the cited references and the pending claims were discussed and, although no agreement was reached, a better understanding of the remaining issues was gained and prosecution of the application was thereby advanced. In accordance with the discussion, Applicant wishes to highlight the claim limitations that it is believed serve to distinguish the claims over the cited art. Reconsideration of the application and withdrawal of the rejection are respectfully requested.

A. Rejection of Claims 1-28 Under 35 U.S.C. § 103(a)

The application presently comprises claims 1 through 28, of which claims 1, 10, 19, and 20 are independent. In the Office Action mailed June 1, 2005, the Examiner rejected Claims 1-28 under 35 U.S.C. § 103 over the combination of the DeWolf patent application publication (US 2002-0032626) and the LeGraw patent application publication (US 2002-0019796).

The patent to DeWolf was cited for determining business entity ownership interest allocation in accordance with a digital data set as claimed, except for determining "contributor transaction classes" into which transactions of contributors with a business entity are assigned. The LeGraw patent was cited for determining such contributor transaction classes. As will be explained further below, Applicant asserts

U.S.S.N. 09/835,209

Johnson, B.

Telephone Interview Summary and Request for Reconsideration

that DeWolf does not describe the claimed determination of business entity ownership interest allocation by calculating a contribution value for contributor transactions and determining an award rule in accordance with the calculated contribution values.

Moreover, because LeGrav also does not perform such determinations and calculations, it is submitted that the combination of LeGrav with DeWolf does not result in the claimed invention, whether or not LeGrav determines the claimed contributor transaction classes.

B. The Claimed Invention

The pending claims are directed to techniques for allocating business entity ownership interest. Claim 1, for example, reads as follows:

1. A method of determining business entity ownership interest allocation in accordance with a digital data set, the method comprising:
determining contributor transaction classes into which transactions of contributors with a business entity are assigned;
processing the digital data set with a computer processor, and calculating a contribution value for the contributor transactions in each contributor transaction class to indicate the contribution of each transaction to the value of the business entity, using at least one performance metric for each contributor transaction class; and
determining at least one award rule for each contributor transaction class in response to the calculated contribution values for the contributor transaction classes.

All of the independent claims, Claims 1, 10, 19, and 20, include similar limitations. As explained below, DeWolf and LeGrav do not relate to such features.

C. The DeWolf Publication

In the Office Action, it was asserted that Paragraphs 0011 and 0012 of DeWolf describe calculating a contribution value for contributor transactions to indicate the

U.S.S.N. 09/835,209

Johnson, B.

Telephone Interview Summary and Request for Reconsideration

contribution of each transaction to the value of the business entity, using at least one performance metric, and it was asserted that Paragraph 0013 describes determining at least one award rule for each contributor. It is submitted that DeWolf has nothing to do with calculating contribution values for contributor transaction classes, has nothing to do with using performance metrics for such calculations, and has nothing to do with determining an award rule for allocating ownership interest based on the calculated value for each transaction class.

DeWolf describes a system that maintains a database registry for "record keeping and transaction processing related to asset ownership" such that the registry may contain digital objects (data objects) that are classified as either Assets or Documents related to Assets (see paragraph 0010). In paragraphs 0011 and 0012 cited by the examiner, DeWolf describes a Global Asset Information Registry (GAIR), which contains data objects that may relate to "assets or asset classes," and which may contain information about "the object, producer, the owner, and other agencies or individuals with a stockholder's interest in the [asset]."

A registry that contains information about assets and classes of assets, and that is used to facilitate transactions related to those assets, should not be confused with the claimed system that allocates ownership in a business entity by (1) determining transaction classes for contributor transactions using (2) a performance metric to calculate a contribution value for the contributor transactions in each contributor transaction class to indicate the contribution of each transaction to the value of the business entity and using (3) an award rule for each contribution class to allocate

U.S.S.N. 09/835,209

Johnson, B.

Telephone Interview Summary and Request for Reconsideration

ownership interest in the business entity based on the calculated value. That is, the claimed invention allocates ownership interest in a business entity through a sequence of three steps.

It appears that DeWolf makes no "calculation" or "determination" whatsoever about assets. Rather, the assets are the data elements of the registry itself and are the data objects that users insert into the registry database. The exemplary databases described in DeWolf relate to automobiles and real estate, not business entity ownership. All of the processing in DeWolf relates to managing a database related to ownership and management of assets and has nothing to do with allocating business entity ownership interest through a sequence of calculations and determinations.

D. The LeGraw Publication

The LeGraw patent was cited for determining contributor transaction classes, which the examiner acknowledged is missing from DeWolf. Paragraphs 0007, 0009, 0010 of LeGraw were cited as showing the claimed feature of "determining contributor transaction classes into which transactions of contributors with a business entity are assigned" (Office Action at Page 2, paragraph 2).

LeGraw does not provide the limitation of "determining contributor transaction classes into which transactions of contributors with a business entity are assigned." LeGraw is interested in asset valuation for purposes of facilitating an exchange transaction, that is, the purchase of a privately owned business enterprise (see paragraph 0009). It is submitted that a "purchaser" of an enterprise is not an example of a "contributor transaction class" that transacts with a business entity and contributes

U.S.S.N. 09/835,209

Johnson, B.

Telephone Interview Summary and Request for Reconsideration

to the value of that entity, as recited in the claims. It is submitted that LeGraw makes no determination about such transaction classes.

LeGraw simply describes a system and method of collecting and trading statistical information (LeGraw, paragraph 0002) and acknowledges that assets, such as business enterprises, are valued by comparison with known values of similar businesses (LeGraw at paragraph 0005). Like DeWolf, the LeGraw citation is thus concerned with a very different scope and purpose than the claimed invention, which relates to an allocation of business entity ownership interest. The DeWolf and LeGraw citations are similar in that they both relate to collecting information about business assets for facilitating exchange. They do not, however, relate to the claimed invention of determining ownership interest allocation by (1) determining transaction classes, (2) calculating a contribution value for contributor transactions in the transaction classes based on a performance metric, and (3) determining an award rule in accordance with the calculated contribution values. Thus, even if LeGraw and DeWolf could be combined, the combination would not provide the claimed invention.

Moreover, Applicant continues to assert that LeGraw cannot be successfully combined with DeWolf and, even if combined, would not make up for the deficiencies of DeWolf. As noted above, DeWolf makes no use of transaction classes and would have no idea what to do with such data. It is submitted that neither DeWolf nor LeGraw relates allocating ownership interest of a business entity by (1) determining transaction classes for contributor transactions (2) using a performance metric to calculate a contribution value for the contributor transactions in each contributor transaction class

U.S.S.N. 09/835,209

Johnson, B.

Telephone Interview Summary and Request for Reconsideration

to indicate the contribution of each transaction to the value of the business entity, and (3) determining an award rule in response to the calculated contribution values. The combination of DeWolf and LeGraw would merely track the ownership and value of an asset.

CONCLUSION

Applicant respectfully submits that all pending claims (1-28) are in condition for allowance and requests withdrawal of the rejection. A notice of allowance is solicited.

Any fees that may be due in connection with the filing of this paper, or during the entire pendency of this application, may be charged to Deposit Account No. 50-1213.

Respectfully submitted,
HELLER EHRLMAN WHITE & McAULIFFE LLP

By:



David A. Hall
Registration No. 32,233

Attorney Docket No.: 26893-6085

Address all correspondence to:

David A. Hall

HELLER EHRLMAN WHITE & McAULIFFE LLP

4350 La Jolla Village Drive

San Diego, California 92122-1246

Telephone: (858) 450-8400

Facsimile: (858) 450-8499

EMAIL: dhall@hewm.com

SD 752472 v1 (26893.6085)